

### **Remarks/Arguments**

This paper is submitted in response to the Office Action mailed March 2, 2006. Upon review of the record, claims 1-55 were originally submitted in this case and are currently pending. In the Office Action, the Examiner rejected claims 1-18, 27-41, and 49 under 35 U.S.C. §102(b) as being anticipated by "Special Edition using Microsoft Project 2000" by Tim Pyron (hereinafter "Pyron"). The Examiner also rejected claims 19-26, 42-48, and 50 under 35 U.S.C. §103(a) as being unpatentable over Pyron in view of U.S. Patent No. 6,571,158 to Sinex (hereinafter "Sinex").

By this paper, claims 19, 21, 23-24, 26, 28-32, 39, 42-46, and 50 have been amended. Support for these amendments may be found in the claims as originally filed. Support for the amendment of claims 19 and 26 may be found in paragraphs [55]-[105] and Figure 4. In view of the following remarks, immediate allowance of claims 1-55 is respectfully requested.

### **Rejection of Claims 1-18, 27-41, and 49 under 35 U.S.C. §102(b)**

In the Office Action, the Examiner rejected claims 1-18, 27-41, and 49 under 35 U.S.C. §102(b) as being anticipated by Pyron. However, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP §2131 (*quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Furthermore, MPEP §2131 provides that "The identical invention must be shown in as complete detail as is contained in the ... claim." *Quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In this case, Pyron does not disclose each and every element of claims 1-18, 27-41, and 49. For example, independent claims 1 and 48 recite, "recording an accumulated variance associated with each time slot." Claims 2-18 and 49 depend from independent claims 1 and 48 respectively and thus, also include this claim language.

On page 3 of the Office Action, the Examiner asserted that "recording an accumulated variance associated with each time slot" is disclosed by Pyron by stating "Ch 16, page 13, See Figure 16.19 where variances are listed for each subtask and for each summary task." This assertion is incorrect for at least two reasons.

First, Figure 16.19 as shown in chapter 16 on page 13 of Pyron does not show an accumulated variance. Of the columns shown in the reference, nothing is accumulated for

each summary task. For example, the summary task "Design Phase" shows a completion of 75%, an actual duration of 31.69 days, and a remaining duration of 10.81 days. The subtask "Prototype design" shows a completion of 100%, an actual duration of 26.67 days, and a remaining duration of 0 days. The subtask "Test Prototype" shows a completion of 44%, an actual duration of 10 days, and a remaining duration of 12.5 days. The subtask "Prototype completed" shows a completion of 100%, an actual duration of 0 days, and a remaining duration of 0 days.

The percent completion of the subtasks is not accumulated in the summary task. The actual duration is also not accumulated in the summary task. The remaining duration is also not accumulated in the summary task, which is illustrated by the subtask "Test Prototype" having a remaining duration that is longer than the remaining duration of the summary task. Consequently, Pyron does not disclose "recording an accumulated variance associated with each time slot" as provided for in claims 1-18 and 49.

Second, a variance as provided for in claims 1-18, 27-41, and 49 is the "variance between the actual number of subtasks completed and the target number associated with each time slot." (emphasis added) Figure 16.19 of Pyron does not disclose the "variance" of claims 1-18, 27-41, and 49. Instead, Figure 16.19 of Pyron discloses a percent completed for each task, the actual duration of the task, and the remaining duration of the task. None of these things are the "variance" of claims 1-18, 27-41, and 49.

In another example, independent claim 26 provides "recording a reason for the variance between the actual number of subtasks completed and the target number when the variance is a nonzero number." Claims 27-41 depends from amended independent claim 26 and thus, also includes this claim language. The Examiner stated on page 6 of the Office Action that, "Pyron does not teach variance reasons." Consequently, Pyron does not disclose each and every element of claims 27-41. Additionally, as discussed above, Figure 16.19 of Pyron does not disclose the "variance" of claims 1-18, 27-41, and 49.

Consequently, Pyron does not disclose each and every element of claims 1-18, 27-41, and 49. Therefore, Pyron does not anticipate claims 1-18, 27-41, and 49 and withdrawal of this rejection is respectfully requested.

Rejection of Claims 19-26, 42-48, and 50 under 35 U.S.C. §103(a)

The Examiner rejected claims 19-26, 42-48, and 50 under 35 U.S.C. §103(a) as being unpatentable over Pyron in view of Sinex. Additionally, MPEP §2143 states that:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As discussed above, Pyron does not teach or suggest all elements of independent claims 1, 26, 48. Like independent claims 1 and 48, independent claim 50 also provides "recording an accumulated variance associated with each time slot." Therefore, Pyron does not teach, or suggest all elements of independent claim 50. Additionally, claims 19-25 and 42-47 depend from claims 1, 26, and 48 and thus, also include the elements of claims 1, 26, and 48. Like Pyron, Sinex also does not teach or suggest "recording an accumulated variance associated with each time slot." Furthermore, the Examiner did not assert that Sinex teaches or suggests recording an accumulated variance. Consequently, Pyron and Sinex do not teach or suggest all elements of claims 19-25, 48, and 50.

Furthermore, Sinex, like Pyron, does not teach or suggest "recording a variance between the actual number of subtasks completed and the target number associated with each time slot," which is an element of claims 19-26, 42-48, and 50. Claims 19-22 and 26-47 also provide, "recording a reason for the variance between the actual number of subtasks completed and the target number when the variance is a nonzero number," which is not taught or suggested by Pyron or Sinex.

In the Office Action on page 6, the Examiner asserted that:

Sinex teaches that it is known to record on the variance card a reason for any variance between the actual number of subtasks completed and the target number ... (See Figure 12 and (column 12, lines 48-50) "box 316 is used to enable the assigned mechanic to record notes regarding repair,

corrective action, turnover or rejection.” Which is the reason for the time required for the task).

However, this assertion is incorrect for at least two reasons.

First, a variance as provided for in claims 19-26, 42-48, and 50 is the “variance between the actual number of subtasks completed and the target number associated with each time slot.” Sinex does not disclose the “variance” of claims 19-26, 42-48, and 50. Instead, Sinex like Pyron tracks the time to complete a task and the percentage completed of a task as illustrated by Figure 9 of Sinex. Therefore, Sinex does not teach or suggest the “variance” of claims 19-26, 42-48, and 50.

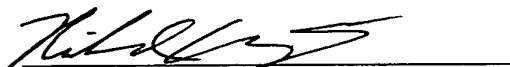
Second, “the reason for the time required for the task” is not “recording on the variance card a reason for any variance between the actual number of subtasks completed and the target number when the variance is a nonzero number” as provided for in claims 19-22 and 26. Figure 12 and column 12, lines 48-50 are directed to a “work card screen [280] which shows, in real-time, the current status of a selected task.” Sinex, col. 12, lines 31-32. Box 316 is used to record notes to facilitate that purpose, not record a reason for the “variance” when the variance is a nonzero number. Consequently, the Examiner’s assertion in rejecting the claims is not supported by Pyron.

Therefore, neither Sinex nor Pyron teach or suggest all the elements of claims 19-26, 42-48, and 50. Consequently, the *prima facie* obviousness of claims 19-26, 42-48, and 50 has not been established. Therefore, withdrawal of this rejection is respectfully requested.

Conclusion

In accordance with the arguments presented above, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing the allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,



Richard K. Chang II  
Registration No. 52,719  
Caterpillar Inc.

Telephone: (309) 636-1126  
Facsimile: (309) 675-1236